



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 161020985-7181-02]

RIN 0648-XF866

Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2018 Bering Sea and Aleutian Islands Pollock, Atka Mackerel, and Pacific cod Total Allowable Catch Amounts

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: NMFS is adjusting the 2018 total allowable catch (TAC) amounts for the Bering Sea and Aleutian Islands (BSAI) pollock, Atka mackerel, and Pacific cod fisheries. This action is necessary because NMFS has determined these TACs are incorrectly specified, and will ensure the BSAI pollock, Atka mackerel, and Pacific cod TACs are the appropriate amounts based on the best available scientific information. Also, NMFS is announcing the Aleutian Islands Catcher Vessel (CV) Harvest Set-Aside and Bering Sea Trawl CV A-Season Sector Limitation will be in effect for 2018, and TACs in this inseason adjustment will apply for 2018. This action is consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area.

DATES: Effective 0000 hours, Alaska local time (A.l.t.), January 1, 2018, until the effective date of the final 2018 and 2019 harvest specifications for BSAI groundfish, unless otherwise modified or superseded through publication of a notification in the *Federal Register*.

Comments must be received at the following address no later than 4:30 p.m., A.l.t.,
[insert date 15 days after publication in the *FEDERAL REGISTER*].

ADDRESSES: You may submit comments on this document, identified by *NOAA-NMFS-2016-0140*, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0140, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017) set the 2018 Bering Sea (BS) pollock TAC at 1,345,000 mt, the 2018 BSAI Atka mackerel TAC at 65,000 mt, the 2018 BS Pacific cod TAC at 223,704 mt, and the 2018 AI Pacific cod TAC at 15,695 mt. In December 2017, the North Pacific Fishery Management Council (Council) recommended a 2018 BS pollock TAC of 1,364,341 mt, which is more than the 1,345,000 mt TAC established by the final 2017 and 2018 harvest specifications for groundfish in the BSAI. The Council also recommended a 2018 BSAI Atka mackerel TAC of 71,000 mt, which is more than the 65,000 mt TAC established by the final 2017 and 2018 harvest specifications for groundfish in the BSAI. The Council recommended a 2018 BS Pacific cod TAC of 188,136 mt, and an AI Pacific cod TAC of 15,695 mt, which is less than the BS Pacific cod TAC of 223,704 mt, and the same as the AI Pacific cod TAC of 15,695 mt established by the final 2017 and 2018 harvest specifications for groundfish in the BSAI. The Council's recommended 2018 TACs, and the area and seasonal apportionments, are based on the Stock Assessment and Fishery Evaluation report (SAFE), dated November 2017, which NMFS has determined is the best available scientific information for these fisheries.

Amendment 113 to the FMP (81 FR 84434, November 23, 2016) and regulations at § 679.20(a)(7)(viii) require NMFS to announce whether the Aleutian Islands incidental catch allowance, directed fishing allowance, CV Harvest Set-Aside, and Unrestricted Fishery, as well as the Bering Sea Trawl CV A-Season Sector Limitation will be in effect for 2018. NMFS received notification from Adak that a shoreplant will be processing Aleutian Islands Pacific cod in 2018. Therefore, the Pacific cod TACs in Table 9A of this inseason adjustment will be effective for 2018 and the harvest limits will apply in 2018.

Steller sea lions occur in the same location as the pollock, Atka mackerel, and Pacific cod fisheries and are listed as endangered under the Endangered Species Act (ESA). Pollock, Atka mackerel, and Pacific cod are a principal prey species for Steller sea lions in the BSAI. The seasonal apportionment of pollock, Atka mackerel, and Pacific cod harvest is necessary to ensure the groundfish fisheries are not likely to cause jeopardy of extinction or adverse modification of critical habitat for Steller sea lions. NMFS published regulations and the revised harvest limit amounts for Atka mackerel, Pacific cod, and pollock fisheries to implement Steller sea lion protection measures to insure that groundfish fisheries of the BSAI are not likely to jeopardize the continued existence of the western distinct population segment of Steller sea lions or destroy or adversely modify their designated critical habitat (79 FR 70286, November 25, 2014). The regulations at § 679.20(a)(5)(i) specify how the BS pollock TAC will be apportioned. The regulations at § 679.20(a)(7) specify how the BSAI Pacific cod TAC will be apportioned. The regulations at § 679.20(a)(8) specify how the BSAI Atka mackerel TAC will be apportioned.

In accordance with § 679.25(a)(1)(iii), (a)(2)(i)(B), and (a)(2)(iv), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that, based on the November 2017 SAFE report for this fishery, the current BSAI pollock, Atka mackerel, and Pacific cod

TACs are incorrectly specified. Pursuant to § 679.25(a)(1)(iii), the Regional Administrator is adjusting the 2018 BS pollock TAC to 1,364,341 mt, the 2018 BSAI Atka mackerel TAC to 71,000 mt, and the 2018 BS Pacific cod TAC to 188,136 mt. Therefore, Table 2 of the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017) is revised consistent with this adjustment.

Pursuant to § 679.20(a)(5)(i), Table 5 of the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017) is revised for the 2018 BS allocations of pollock TAC to the directed pollock fisheries and to the Community Development Quota (CDQ) directed fishing allowances consistent with this adjustment. The Steller sea lion protection measure final rule (79 FR 70286, November 25, 2014), sets harvest limits for pollock in the A season (January 20 to June 10) in Areas 543, 542, and 541, see § 679.20(a)(5)(iii)(B)(6). In Area 541, the 2018 A season pollock harvest limit is no more than 30 percent, or 12,236 mt, of the AI ABC of 40,788 mt. In Area 542, the 2018 A season pollock harvest limit is no more than 15 percent, or 6,118 mt, of the AI ABC of 40,788 mt. In Area 543, the 2018 A season pollock harvest limit is no more than 5 percent, or 2,039 mt, of the AI pollock ABC of 40,788 mt.

TABLE 5—FINAL 2018 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA)¹

[Amounts are in metric tons]

Area and sector	2018 Allocations	2018 A season ¹		2018 B season ¹
		A season DFA	SCA harvest limit ²	B season DFA
Bering Sea subarea TAC ¹	1,364,341	n/a	n/a	n/a
CDQ DFA	164,434	61,395	38,202	75,093
ICA ¹	47,888	n/a	n/a	n/a
Total Bering Sea non-CDQ DFA	1,180,019	531,008	330,405	649,010
AFA Inshore	590,009	265,504	165,203	324,505
AFA Catcher/Processors ³	472,007	212,403	132,162	259,604
Catch by C/Ps	431,887	194,349	n/a	237,538
Catch by CVs ³	40,121	18,054	n/a	21,754
Unlisted C/P Limit ⁴	2,360	1,062	n/a	1,280
AFA Motherships	118,002	53,101	33,041	64,901
Excessive Harvesting Limit ⁵	206,503	n/a	n/a	n/a
Excessive Processing Limit ⁶	354,006	n/a	n/a	n/a
Aleutian Islands subarea ABC	40,788	n/a	n/a	n/a
Aleutian Islands subarea TAC ¹	19,000	n/a	n/a	n/a
CDQ DFA	1,900	760	n/a	1,140
ICA	2,400	1,200	n/a	1,200
Aleut Corporation	14,700	12,355	n/a	345
Area harvest limit ⁷ 541	12,236	n/a	n/a	n/a
542	6,118	n/a	n/a	n/a
543	2,039	n/a	n/a	n/a
Bogoslof District ICA ⁸	500	n/a	n/a	n/a

¹Pursuant to § 679.20(a)(5)(i)(A), the BS subarea pollock, after subtracting the CDQ DFA (10 percent) and the ICA (3.9 percent), is allocated as a DFA as follows: inshore sector - 50 percent, catcher/processor sector (C/P) - 40 percent, and mothership sector - 10 percent. In the BS subarea, 45 percent of the DFA is allocated to the A season (January 20-June 10) and 55 percent of the DFA is allocated to the B season (June 10-November 1). Pursuant to § 679.20(a)(5)(iii)(B)(2)(i) and (ii), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (2,400 mt), is allocated to the Aleut Corporation for a pollock directed fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the pollock directed fishery.

²In the BS subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1.

³Pursuant to § 679.20(a)(5)(i)(A)(4), not less than 8.5 percent of the DFA allocated to listed catcher/processors shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processors.

⁴Pursuant to § 679.20(a)(5)(i)(A)(4)(iii), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.

⁵Pursuant to § 679.20(a)(5)(i)(A)(6), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

⁶Pursuant to § 679.20(a)(5)(i)(A)(7), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

⁷Pursuant to § 679.20(a)(5)(iii)(B)(6), NMFS establishes harvest limits for pollock in the A season in Area 541 no more than 30 percent, in Area 542 no more than 15 percent, and in Area 543 no more than 5 percent of the Aleutian Islands pollock ABC.

⁸The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Pursuant to § 679.20(a)(8), Table 7 of the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017) is revised for the 2018 seasonal and spatial allowances, gear shares, CDQ reserve, incidental catch allowance, and Amendment 80 allocation of the BSAI Atka mackerel TAC consistent with this adjustment.

TABLE 7–FINAL 2018 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector ¹	Season ^{2,3,4}	2018 allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District ⁵	Western Aleutian District
TAC	n/a	36,500	21,000	13,500
CDQ reserve	Total	3,906	2,247	1,445
	A	1,953	1,124	722
	Critical Habitat	n/a	674	433
	B	1,953	1,124	722
	Critical Habitat	n/a	674	433
Non-CDQ TAC	n/a	32,595	18,753	12,056
Jig ⁶	Total	163	0	0
ICA	Total	800	75	20
BSAI trawl limited access	Total	3,163	1,868	0
	A	1,582	934	0
	Critical Habitat	n/a	560	0
	B	1,582	934	0
	Critical Habitat	n/a	560	0
Amendment 80 sector	Total ⁶	28,468	16,810	12,036
	A	14,234	8,405	6,018
	Critical Habitat	n/a	5,043	3,611
	B	14,234	8,405	6,018
	Critical Habitat	n/a	5,043	3,611

¹ Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, jig gear allocation, and ICAs to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

² Sections 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

³ The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

⁴ Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10 and the B season from June 10 to December 31.

⁵ Section 679.20(a)(8)(ii)(C)(I)(i) limits no more than 60 percent of the annual TACs in Areas 542 and 543 to be caught inside of critical habitat; (a)(ii)(C)(I)(ii) equally divides the annual TACs between the A and B seasons as defined at § 679.23(e)(3); and (a)(8)(ii)(C)(2) requires the TAC in Area 543 shall be no more than 65 percent of ABC.

⁶ Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtracting the CDQ reserve and ICA. The amount of this allocation is 0.5 percent. The jig gear allocation is not apportioned by season.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Pursuant to § 679.20(a)(7), Table 9 of the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017) is revised for the 2018 gear shares and seasonal allowances of the BSAI Pacific cod TAC consistent with this adjustment.

TABLE 9—FINAL 2018 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC
[Amounts are in metric tons]

Gear sector	Percent	2018 share of gear sector total	2018 share of sector total	2018 seasonal apportionment	
				Seasons	Amount
BS TAC	n/a	188,136	n/a	n/a	n/a
BS CDQ	n/a	20,131	n/a	see § 679.20(a)(7)(i)(B)	n/a
BS non-CDQ TAC	n/a	168,005	n/a	n/a	n/a
AI TAC	n/a	15,695	n/a	n/a	n/a
AI CDQ	n/a	1,679	n/a	see § 679.20(a)(7)(i)(B)	n/a
AI non-CDQ TAC	n/a	14,016	n/a	n/a	n/a
Western Aleutian Island Limit	n/a	4,018	n/a	n/a	n/a
Total BSAI non-CDQ TAC ¹	100	182,021	n/a	n/a	n/a
Total hook-and-line/pot gear	60.8	110,669	n/a	n/a	n/a
Hook-and-line/pot ICA ²	n/a	400	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	110,269	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	88,324	Jan 1-Jun 10	45,045
				Jun 10-Dec 31	43,279
Hook-and-line catcher vessel ≥ 60 ft LOA	0.2	n/a	363	Jan 1-Jun 10	185
				Jun 10-Dec 31	178
Pot catcher/processor	1.5	n/a	2,720	Jan 1-Jun 10	1,387
				Sept 1-Dec 31	1,333
Pot catcher vessel ≥ 60 ft LOA	8.4	n/a	15,235	Jan 1-Jun 10	7,770
				Sept 1-Dec 31	7,465
Catcher vessel < 60 ft LOA using hook-and-line or pot gear	2	n/a	3,627	n/a	n/a
Trawl catcher vessel	22.1	40,227	n/a	Jan 20-Apr 1	29,768
				Apr 1-Jun 10	4,425
				Jun 10-Nov 1	6,034
AFA trawl catcher/processor	2.3	4,186	n/a	Jan 20-Apr 1	3,140
				Apr 1-Jun 10	1,047
				Jun 10-Nov 1	0
Amendment 80	13.4	24,391	n/a	Jan 20-Apr 1	18,293
				Apr 1-Jun 10	6,098
				Jun 10-Nov 1	0
Jig	1.4	2,548	n/a	Jan 1-Apr 30	1,529
				Apr 30-Aug 31	510
				Aug 31-Dec 31	510

¹ The gear shares and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs, after the subtraction of CDQ. If the TAC for Pacific cod in either the AI or BS is reached, then directed fishing for Pacific cod in that subarea may be prohibited, even if a BSAI allowance remains.

² The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 400 mt for 2018 based on anticipated incidental catch in these fisheries.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Pursuant to § 679.20(a)(7)(viii), the Pacific cod TACs in Table 9A of this inseason adjustment will be effective for 2018 and the harvest limits will apply in 2018.

Table 9a. FINAL 2018 BSAI A-SEASON PACIFIC COD LIMITS ALEUTIAN ISLANDS FOR SHOREPLANTS INTENTION TO PROCESS PACIFIC COD¹

2018 Allocations under Aleutian Islands CV Harvest Set-Aside	Amount (mt)
AI non-CDQ TAC	14,016
AI ICA	2,500
AI DFA	11,516
BS non-CDQ TAC	168,005
BSAI Trawl CV A-Season Allocation	29,768
BSAI Trawl CV A-Season Allocation minus Sector Limitation ²	24,768
BS Trawl CV A-Season Sector Limitation	5,000
AI CV Harvest Set-Aside	5,000
AI Unrestricted Fishery	6,516

¹ These allocations will apply in 2018 because NMFS received notice of intent to process AI Pacific cod by October 31 of the previous year, pursuant to § 679.20(a)(7)(viii), and the performance requirements set forth in § 679.20(a)(7)(viii) are likewise met. Prior to October 31, 2017, NMFS received timely notice from the City of Adak indicating intent to process AI Pacific cod for the 2018 season. Accordingly, the harvest limits in Table 9a will be in effect in 2018, subject to the performance requirements outlined in § 679.20(a)(7)(viii).

² This is the amount of the BSAI trawl CV A season allocation that may be harvested in the Bering Sea prior to March 21, 2018, unless modified because the performance requirements were not met.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would allow for harvests that exceed the appropriate allocations for pollock, Atka mackerel, and Pacific cod in the BSAI based on the best scientific information available. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 20, 2017, and additional time for prior public comment would result in conservation concerns for the ESA-listed Steller sea lions.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until [*insert date 15 days after publication in the FEDERAL REGISTER*].

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 15, 2017.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

[FR Doc. 2017-27428 Filed: 12/19/2017 8:45 am; Publication Date: 12/20/2017]